
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 44

**The Local Government (Executive Arrangements)
Regulations (Northern Ireland) 2015**

PART 2

Functions and responsibilities

Functions not to be the responsibility of a council's executive

3.—(1) The functions of a council specified in column (1) of Schedule 1 (functions not to be the responsibility of a council's executive) by reference to the enactments specified in relation to those functions in column (2) are not to be the responsibility of an executive of the council.

(2) The functions of—

- (a) imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted in the exercise of a function specified in column (1) of Schedule 1; and
- (b) determining any other terms to which any such approval, consent, licence, permission or registration is subject,

are not to be the responsibility of an executive of the council.

(3) The function of determining whether, and in what manner, to enforce—

- (a) any failure to comply with an approval, consent, licence, permission or registration granted as mentioned in paragraph (2)(a);
- (b) any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject; or
- (c) any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of an executive of the council,

is not to be the responsibility of an executive of the council.

(4) The function of—

- (a) amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned in paragraph (2), or any condition, limitation or term to which it is subject; or
- (b) revoking any such approval, consent, licence, permission or registration,

is not to be the responsibility of an executive of the council.

(5) The function of making any scheme authorised or required by regulations under section 31 of the 2011 Act (allowances, etc. for councillors) , or of amending, revoking or replacing any such scheme, is not to be the responsibility of an executive of the council.

(6) The function of determining—

- (a) the amount of any allowance payable under section 32 of the 2011 Act (allowances for chairperson and vice-chairperson);
- (b) the rates at which payments are to be made under regulation 7 of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012⁽¹⁾ (travelling and subsistence allowances);
- (c) the amount of any allowance payable pursuant to a scheme under section 31 of the 2011 Act (allowances, etc. for councillors), or the rates at which payments by way of any such allowance are to be made;
- (d) whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of an executive of the council; and
- (e) where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge,

is not to be the responsibility of an executive of the council.

(7) Section 7 of the 2014 Act (arrangements for discharge of functions of councils) shall not apply with respect to the discharge of any functions mentioned in paragraphs (5) or (6)(a) to (c).

(8) Subject to any provision of regulations under section 26 of the 2014 Act (joint exercise of functions), the function of—

- (a) making arrangements for the discharge of functions by a joint committee or officer under section 9 of the 2014 Act (arrangements for discharge of functions by councils jointly); and
- (b) making appointments under section 11 of the 2014 Act (appointment of committees, etc for the purpose of discharging functions),

is not to be the responsibility of an executive of the council.

(9) Unless otherwise provided for by any other provision of these Regulations, a function of a council which, by virtue of any enactment passed or made before the making of these Regulations, may be discharged only by a council, and is not to be the responsibility of an executive of the council.

Functions which may be the responsibility of a council's executive

4. The functions specified in Schedule 2 (functions which may be the responsibility of a council's executive) may be the responsibility of an executive of a council.

Function not to be the sole responsibility of a council's executive

5.—(1) In connection with the discharge of the function—

- (a) of formulating or preparing a plan or strategy of a description specified in column (1) of Schedule 3 (functions not to be the sole responsibility of a council's executive);
- (b) of formulating a plan or strategy for the control of the council's borrowing or capital expenditure; or
- (c) of formulating or preparing any other plan or strategy whose adoption or approval is, by virtue of regulation 6(1), a matter for determination by the council,

the actions designated by paragraph (3) ("the paragraph (3) actions"), shall not be the responsibility of an executive of the council.

(2) Except to the extent of the paragraph (3) actions, such function mentioned in paragraph (1) shall be the responsibility of such an executive.

(3) The actions designated by this paragraph are—

(1) [S.R. 2012 No. 85](#)

- (a) the giving of instructions requiring the executive to reconsider any draft plan or strategy submitted by the executive for the council's consideration;
- (b) the amendment of any draft plan or strategy submitted by the executive for the council's consideration;
- (c) the approval, for the purpose of its submission to a Northern Ireland department for its approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; and
- (d) the adoption (with or without modification) of the plan or strategy.

(4) The function of amending, modifying, varying or revoking any plan or strategy of a description referred to in paragraph (1), (whether approved or adopted, before or after the coming into operation of these Regulations)—

- (a) shall be the responsibility of the executive to the extent that the making of the amendment, modification, variation or revocation—
 - (i) is required for giving effect to requirements of a Northern Ireland department in relation to a plan or strategy submitted for its approval, or to any part so submitted; or
 - (ii) is authorised by a determination made by the council when approving or adopting the plan or strategy, as the case may be; and
- (b) shall not be the responsibility of such an executive to any other extent.

(5) Section 7 of the 2014 Act (arrangements for discharge of functions of council) shall not apply with respect to the discharge—

- (a) of a function specified in paragraph (1) to the extent that, by virtue of that paragraph, it is not the responsibility of an executive of the council; and
- (b) of the functions specified in paragraph (4) to the extent that they are not the responsibility of an executive of the council.

(6) Subject to paragraph (7) in connection with the discharge of the function of—

- (a) making a calculation in accordance with section 3 of the 2011 Act (annual budget), whether originally or by way of substitute; or
- (b) notifying a rate under Part II of the Rates (Northern Ireland) Order 1977 (rating), the actions designated by paragraph (8) (“the paragraph (8) actions”),

shall be the responsibility of an executive of the council.

(7) Except to the extent of the paragraph (8) actions, such function mentioned in paragraph (6) shall not be the responsibility of such an executive.

(8) The actions designated by this paragraph are—

- (a) the preparation, for submission to the council for its consideration, of—
 - (i) estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation and estimates of the calculation; or
 - (ii) the amounts required to be stated in the rate;
- (b) the reconsideration of those estimates and amounts in accordance with the council's requirements; and
- (c) the submission for the council's consideration of revised estimates and amounts.

Discharge of executive functions by councils

6.—(1) Subject to paragraph (2), a function of any of the descriptions specified in column (1) of Schedule 4 (circumstances in which functions are not to be the responsibility of a council's executive)

(which, but for this paragraph, may be the responsibility of an executive of the council), shall not be the responsibility of such an executive in the circumstances specified in column (2) in relation to that function.

(2) Paragraph (1) shall not apply in relation to the discharge of a function of the description specified in paragraph 3 of column (1) of Schedule 4 where—

- (a) the circumstances which render necessary the making of the determination may reasonably be regarded as urgent; and
- (b) the individual or body by whom the determination is to be made has obtained a statement in writing that the determination needs to be made as a matter of urgency from—
 - (i) the chairperson of the relevant overview and scrutiny committee or, if there is no such person;
 - (ii) the chairperson of every relevant overview and scrutiny committee or, if such persons are unable to act;
 - (iii) the chairperson or, in their absence, the vice-chairperson of the council .

(3) In paragraph (2) “relevant overview and scrutiny committee” means an overview and scrutiny committee of the council concerned whose terms of reference include the power to review or scrutinise decisions or other actions taken in the discharge of functions to which the determination relates.

(4) The individual or body by whom a determination is made pursuant to paragraph (2) shall, as soon as reasonably practicable after the making of the determination, submit to the council a report which shall include particulars of—

- (a) the determination;
- (b) the emergency or other circumstances in which it was made; and
- (c) the reason for the determination.

(5) Section 7 of the 2014 Act (arrangements for discharge of functions of council) shall not apply with respect to the discharge of a function referred to in paragraph (1) which, by virtue of that paragraph, is not the responsibility of an executive of the council.